December 22, 2000

D.T.E. 00-68

Petition of Western Massachusetts Electric Company, New England Power Company and Fitchburg Gas and Electric Light Company for Approval of Asset Divestiture and for findings under § 32(c) of the Public Utility Holding Company Act of 1935.

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- INTRODUCTION

On September 8, 2000, Western Massachusetts Electric Company ("WMECo"), New England Power Company ("NEP") and Fitchburg Gas and Electric Light Company ("FG&E") (together, the "Joint Petitioners"), filed a Petition with the Department of Telecommunications and Energy ("Department") seeking approval of the sale of the Joint Petitioner's respective interests in Millstone nuclear generating units 1, 2, and 3 ("Millstone") to Dominion Resources, Inc. ("Dominion").[(1)] The Petition also requests that the Department make certain findings concerning the assets as eligible facilities for exempt wholesale generator ("EWG") status.[(2)] The Petition was docketed as D.T.E. 00-68.

Pursuant to notice duly issued, the Department held a public hearing at its Boston Offices on October 20, 2000. The Department granted full party intervenor status to the Attorney General of the Commonwealth ("Attorney General"), Dominion and DNC. The Department granted limited participant status to Boston Edison Company, Cambridge Electric Light Company and Commonwealth Electric Company (collectively "NSTAR"). Following the public hearing, the Department held a procedural conference. The Department held a subsequent procedural conference on November 14, 2000 and granted the motion of J.P. Morgan Securities, Inc. ("J.P. Morgan") to intervene.

An evidentiary hearing was held on November 20, 2000. The Joint Petitioners sponsored the testimony of three witnesses: Richard A. Soderman, Director of Regulatory Policy and Planning for Northeast Utilities Service Company; Richard M. Kacich, Director of Business Services for Northeast Nuclear Energy Company ("NNECo"); and Paul M. Dabbar, Vice President in the Global Energy Investment Banking Group at J.P. Morgan. NEP sponsored the testimony of Terry L. Schwennesen, Vice President and Director of

Generation Investments for NEP; and Fitchburg sponsored the testimony of Mark H. Collin, Treasurer of Fitchburg. There were 75 exhibits entered into the record as well as 16 responses to record requests. The Joint Petitioners and Dominion each filed an Initial Brief. The Attorney General did not identify any issues that required comment, and therefore, did not submit an Initial Brief in this proceeding (Attorney General Letter December 8, 2000). WMECo and Dominion notified the Department that they did not intend to file a Reply Brief (WMECo Letter December, 12, 2000, Dominion Letter December 13, 2000).[(3)]

II. STANDARD OF REVIEW

The Legislature has vested broad authority in the Department to regulate the ownership and operation of electric utilities in the Commonwealth. See, e.g. G.L. c. 164, § 76;D.P.U. /D.T.E.97-111, at 17. The Department's authority was most recently augmented by the Restructuring Act.[(4)] Boston Edison Company, D.P.U./D.T.E. 96-23, at 9 (1998). The Restructuring Act requires that each electric company organized under the provisions of

G.L. c. 164 file a plan for restructuring its operations to allow for the introduction of retail competition in generation supply in accordance with the provisions of G.L. c. 164. G.L. c. 164, § 1A(a). Among other things, the Restructuring Act requires that all restructuring plans contain a detailed accounting of the company's transition costs and a description of the strategy to mitigate those transition costs. Id. One possible mitigation strategy is the divestiture of a company's generating units. G.L. c. 164, § 1.

In reviewing a company's proposal to divest its generating units, the Department considers the consistency of the proposed transactions with the company's restructuring plan, or in some cases the company's restructuring settlement, and the Restructuring

Act. A divestiture transaction will be determined to be consistent with the company's restructuring plan or settlement and the Restructuring Act if the company demonstrates to the Department that the "sale process is equitable and maximizes the value of the existing generation facilities being sold." G.L. c. 164, § 1A(b)(1). A sale process will be

deemed both equitable and structured to maximize the value of the existing generating facilities being sold, if the company establishes that it used a "competitive auction or sale" that

ensured "complete, uninhibited, non-discriminatory access to all data and information by any and all interested parties seeking to participate in such auction or sale." G.L. c. 164, §1A(b)(2). The Restructuring Act provides that all proceeds from any such

divestiture of generating facilities "that inure to the benefit of ratepayers, shall be applied to reduce the amount of the selling company's transition costs." G.L. c. 164, § 1A(b)(3). Where the Department has approved a company's restructuring plan or settlement as consistent or substantially compliant with the Restructuring Act, the Department will

approve a company's proposed ratemaking treatment of any divestiture proceeds if the company's proposal is consistent with the company's approved restructuring plan or settlement.

III. DESCRIPTION OF ASSET DIVESTITURE

A. Overview

The Joint Petitioners propose to divest their respective generation interests in Millstone to Dominion (Petition at 1). Millstone Units 2 and 3 are operational 875 megawatt ("MW") and 1,154 MW nuclear power units, respectively (id.). Millstone Unit 1 has been permanently shut down and is in the process of being decommissioned (id.). WMECo has a 19 percent ownership interest in each of Millstone Units 1 and 2, and a 12.24 percent interest in Millstone Unit 3 (id. at 2). NEP has no ownership in either Millstone Unit 1 or 2, and a 16.21 percent ownership in Millstone Unit 3, inclusive of the 4.01 percent formerly held by Montaup Electric Company ("Montaup")[(5)] (id.). FG&E has a 0.22 percent ownership interest in Millstone Unit 3 (id. at 3).

Millstone was offered for sale in a public auction, conducted pursuant to Connecticut General Act 98-28, An Act Concerning Electric Restructuring (Connecticut General Statute

§ 16-244f) ("CT. Act").[(6)] Each of the owners, except for the Massachusetts Municipal Wholesale Electric Company ("MMWEC") and Central Vermont Public Service Company agreed to sell their ownership shares in Millstone to Dominion.[(7)] The Connecticut Department of Public Utility Control ("CT. DPUC") selected J.P. Morgan to conduct the auction

(Petition at 6). The auction was supervised by the CT. DPUC specially-appointed Utility Operations Management Analysis ("UOMA") auction team (id. at 6).

In November 1999, NEP and Montaup entered into settlement agreements with CL&P, WMECo and Northeast Utilities ("NU") addressing litigation and arbitration filed by NEP and Montaup against those companies for damages related to an earlier shutdown of Millstone

Unit 3. Montaup merged into NEP effective May 1, 2000 and NEP is the successor in interest to Montaup's settlement agreement. Under the terms of the settlement, NU agreed to include NEP's (including Montaup's) 16.21 percent minority interest in the Millstone Unit 3 auction. As part of the settlement, NEP's proceeds from the sale and contribution to the decommissioning funds were set at fixed amounts and NU agreed to indemnify NEP from any residual liabilities or costs resulting from the sale, including any requirement to purchase power from the Unit (id. at 5, n.3).

In December, 1999, FG&E received Department approval for its entitlements sale to Select Energy, Inc. of Connecticut ("Select"). Fitchburg Gas and Electric Light

Company, D.T.E. 99-58, (1999). The Department approved the entitlements sale as a final divestiture of FG&E's assets, including its interest in Millstone Unit 3. As part of this sale, FG&E retained its ability to recover the proceeds of any claims against CL&P, WMECo and NU as a result of an earlier shutdown of Millstone Unit 3. In addition, FG&E agreed that any proceeds of the sale of its ownership interest in Millstone Unit 3 would flow to Select, in consideration for Select's assumption of FG&E's obligation for on-going costs associated with Millstone Unit 3

(Petition at 5, n.4).

FG&E also entered into a settlement agreement with NU addressing litigation and arbitration claims filed by FG&E for damages related to the shutdown of Millstone Unit 3. Under the terms of the settlement, NU agreed to include FG&E's minority interest in Millstone Unit 3 in the auction process. NU also agreed to pay FG&E certain fixed amounts for settlement of FG&E's claims, both at the time of the settlement and following the closing of the Millstone Unit 3 sale. NU agreed to indemnify FG&E from any residual liabilities or costs resulting form the sale, including any requirement to purchase power from the unit (id.).

B. Description of the Divestiture Process

The CT. Act requires the appointment of an auction agent unrelated to the selling utilities to prevent an affiliate from receiving any undue advantage in the auction process

(Exh. JA-5, at 3). J.P. Morgan was selected as the auction agent (id. at 4). The CT. DPUC designated UOMA to oversee the auction process and act as the CT. DPUC's independent supervisory agent during the auction process (id.). Under UOMA's supervision, J.P. Morgan: (1) developed a strategy for the auction, (2) coordinated the production of the confidential offering memorandum and related marketing materials, (3) formulated and contacted a list of potential interested parties, (4) coordinated management presentations, site visits, and responses to bidders' due diligence, and (5) reviewed initial binding bid evaluations; and coordinated the final negotiations between the winning bidder and the selling entities (id.).

J.P. Morgan states that its goal was to ensure that the sale process would be equitable and would maximize the value of Millstone. In addition, J.P. Morgan required: (1) the assets be sold through a public auction, (2) the sale price for each unit of Millstone had to meet or exceed the minimum established bid price set by the CT. DPUC for the specific unit,[(8)]

(3) the auction had to be conducted in accordance with the divestiture plan approved by the CT. DPUC,[(9)] (4) the winning bidders had to qualified to own the facilities and had to agree to preserve existing labor agreements if any, and (5) the auction process had to result in a net benefit to ratepayers (id., at 5).

The assets included in the auction consisted of 100 percent of Millstone Units 1 and 2, and 93.47 percent of Millstone Unit 3 (id., at 6). Each "consenting minority co-owner"[(10)]

authorized NU to include their interest in the sale and to negotiate the terms of the sale on their behalf (id.).

J.P. Morgan compiled a list of potential bidders based on the current owners of nuclear facilities, recent participants in nuclear asset sales, foreign nuclear plant owners, and responses from a press release (Tr. 1, at 96-97;Exh. JA-5, at 7). Bidders were required to sign a confidentiality agreement, and to submit technical and financial qualifications that demonstrated their ability to own and operate Millstone (id., at 7). In return, the bidders received an offering memorandum that described the assets and auction process in detail (id.). Neither NU nor Consolidated Edison, Inc., with whom NU has entered into an agreement and plan of merger, participated as bidders in the auction. In addition, a nuclear protocol was established to govern employee involvement with J.P. Morgan and UOMA during the auction and negotiation process, and to protect the confidentiality of the bidders and bids in various stages of the auction process (Exh. JA-1, at 5). Any bidder who violated this protocol could be disqualified from the auction (id.).

In conducting the auction, J.P. Morgan used a confidential process, consisting of an initial identification of potential bidders, followed by the bidder due diligence procedure, in which bidders were given access to an electronic data room (Exh. JA- 5, at 7-9). The electronic data room contained documents that were compiled for the sale process, and a list of answers to "frequently asked questions" regarding Millstone. Bidders were allowed to submit confidential questions and participate in individual pre-bid meetings (id., at 9). Following the due diligence phase, qualified bidders submitted binding bids (id.). The binding bids were required to include, but were not limited to: (1) a detailed description of the bidder's financial and operation qualifications to purchase and operate Millstone, (2) a separate binding purchase price for each unit bid, (3) the amount of any required decommissioning fund top-off payment, (4) separate purchase prices for the nuclear fuel inventories and non-fuel inventories, and (5) a full mark-up indicating any proposed changes to the PSA, the interconnection agreement and a power purchase agreement (collectively, the "Definitive Agreements")

(id., at 8-10).

J.P. Morgan evaluated the bids based on an assessment of each bidder's financial, operational, safety and other qualifications, the present value of the binding bid, and bidders willingness to accept the material terms of the transaction as specified in the Definitive Agreements (id., at 10). Based on its assessment of the binding bids, J.P. Morgan identified a leading bidder whose bid was the most favorable in light of the criteria specified (id., at 11). J.P. Morgan consulted with UOMA to initiate post-bid negotiations with the leading bidder (id.). Simultaneously, J.P. Morgan continued discussions with the other bidders in the event that post-bid negotiations with the leading bidder were unsuccessful (id.). The identity of the leading bidder, Dominion, was disclosed to NU only at the time of one-on-one negotiations (id.).

On August 7, 2000, Dominion was announced as the winning bidder and entered into a PSA for the Millstone assets (id., at 12).[(11)] J.P. Morgan reported that the final sale price

of all the assets offered at auction was $1.298 billion, subject to certain adjustments and deliverable fully in cash at closing (id., at 13). The sale price equated to a per unit price of $507/KW for Millstone Unit 2 and $791/KW for Millstone Unit 3, for a total transaction price of $664/KW of capacity purchased (id., at 13).[(12)]

With respect to the decommissioning fund, although Dominion did not require any

top-off payment, several circumstances could trigger an additional funding requirement. First, in the event that earnings on the current trust amounts are lower than anticipated between the execution of the PSA and the actual closing date, WMECo and CL&P, on behalf of the sellers, will be required to make sufficient contributions to the funds at closing to make them equal to the amounts set forth in the PSA (Exh. JA-1, at 10). Second, in the event that the Nuclear Regulatory Commission ("NRC") does not accept the parent guarantee of Dominion as a method of financial assurance for decommissioning expenses of Millstone Unit 1, WMECo and CL&P, will be required to contribute approximately $20.8 million to the Millstone Unit 1 decommissioning fund (id., at 11).[(13)] Third, to the extent additional work remains to be performed on Millstone Unit 1, WMECo and CL&P, on behalf of the sellers, will be required to either reimburse the cost of such work to Dominion, or to add amounts to the Millstone Unit 1 decommissioning trust (id., at 11). Finally, if the closing is delayed past the April 1, 2001 date agreed to in the PSA, the decommissioning trust balance will be increased by the sellers by 0.5 percent per month (id., at 11).

C. Positions of the Parties

The Joint Petitioners agreed to have the Millstone assets sold in a public auction conducted in accordance the CT. Act and CT. DPUC Docket No. 99-09-12 (FG&E Brief at 6, WMECo Brief at 6). Pursuant to the CT. Act, the CT. DPUC was required to select an independent party to conduct the auction (id.). The auction was supervised by the UOMA auction team under the auspices of the CT. DPUC (id.). The Joint Petitioners each support the auction process and affirm that the Millstone sale process was equitable and maximized the value of the assets (FG&E Brief at 5-12; WMECo Brief at 4-8). FG&E and WMECo claim that the process followed by J.P. Morgan exceeded the strict standards in Massachusetts requiring an open, uninhibited process, and therefore ensures maximization of the value of the assets sold (FG&E Brief at 5; WMECo Brief at 6). FG&E and WMECO state that J.P. Morgan first developed a strategy for the process, including methods for maintaining the confidentiality of the bidders. Next, J.P. Morgan identified potential bidders and established the financial and technical qualifications necessary for serious bidders, and permitted substantial due diligence. Finally, following a comprehensive evaluation of initial binding bids, and one-on-one post-bid negotiations with the leading bidder, J.P. Morgan chose the winning bidder, while simultaneously maintaining contact with other qualified bidders (FG&E Brief at 5-6; WMECo Brief at 6-7). WMECo maintains that the auction process maximized the total value of Millstone by offering the assets for sale in a highly competitive public auction, thereby resulting in the highest amount ever yielded in a nuclear auction (WMECo Brief at 8). The Attorney General did not identify any issues that required comment, and therefore, did not submit

either an Initial Brief or a Reply Brief in this proceeding (Attorney General Letter, December 8, 2000).

D. Analysis and Findings

In evaluating the Joint Petitioners' request to divest Millstone, the Department must first determine whether the sale process was equitable and structured to maximize the value of the assets being sold. In making these determinations, the Department considers whether the company used a "competitive auction or sale" that ensured "complete, uninhibited,

non-discriminatory access to all data and information by any and all interested parties seeking to participate in such auction of sale." G.L. c. 164, § 1A(b)(2).

The record shows that the structure of the auction allowed bidders to establish the market value of Millstone through an open and competitive market test (Exh. JA-5 at 3-15). J.P. Morgan solicited interest from a broad array of potential qualified bidders in the nuclear industry (id. at 7-9). All bidders had equal access to data, thereby facilitating due diligence inquires. Moreover, each bidder was permitted to conduct meetings and site visits (id. at 7). J.P. Morgan reviewed the initial binding bids and proceeded with the selection of the successful bidder (id. at 9). J.P. Morgan subsequently coordinated the final negotiations between the winning bidder and the sellers, which resulted in the execution of a PSA (id. at 12). The above record evidence demonstrates that the auction process ensured complete, uninhibited,

non-discriminatory access to all data and information by bidders, and the sale yielded the highest amount ever received in a nuclear auction. Therefore, the Department finds that the auction process used by the Joint Petitioners was equitable and maximized the value of the assets sold.

The Department also finds that the auction process satisfies the requirements of the Restructuring Act regarding asset divestiture and mitigation. G.L. c. 164, § 1A(b)(2). Any electric company seeking to recover transition costs is required to mitigate its transition costs to the maximum extent possible. G.L. c. 164, § 1A(d)(1). Under the Restructuring Act, mitigation includes the sale of generating facilities. G.L. c. 164, § 1. As described above, the Department finds the auction process maximized the value of Millstone by offering the assets for sale in an open and competitive auction. As a result, the proceeds from the sale will be available to mitigate transition costs that the Joint Petitioners would otherwise be required to collect from ratepayers. Furthermore, Dominion will assume substantially all liabilities associated with the operation of Millstone, including decommissioning of the units. The elimination of the risk of operation and future decommissioning mitigates potential future costs that may otherwise be paid by ratepayers.

The Department has held that a divestiture transaction will be determined to be consistent with a company's restructuring plan or settlement agreement if the company demonstrates to the Department that the "sale process is equitable and maximizes the value of the

existing facilities being sold." Boston Edison Company/Commonwealth Electric Company, D.T.E. 98-119/ D.T.E. 98-126, at 4-5 (1999). Accordingly, because the Joint Petitioners have demonstrated that the sale process was equitable and maximized the value of Millstone, the Department finds that the Millstone divestiture is consistent with the Joint Petitioners' restructuring plans or settlement agreements.

The Joint Petitioners' request in this proceeding is limited to approval of the sale of Millstone and obtaining the necessary PUHCA findings (Petition at 8). The Joint Petitioners did not propose to adjust their respective transition charges as a result of this proceeding, nor do they seek approval of adjustments to sales proceeds. Consistent with the limited scope of this proceeding, the Department's review did not include a determination of the allocation of sales proceeds among the Joint Petitioners. Any ratemaking treatment of the sale proceeds will be determined for each company during their respective transition costs reconciliation proceedings.

IV. EXEMPT WHOLESALE GENERATOR STATUS

The Joint Petitioners state that, in order for the sale to close, Dominion must obtain a determination from the Federal Energy Regulatory Commission ("FERC") that the divested assets qualify for EWG status (id. at 9).[(14)] EWG status allows a company to own and operate the assets without regulation as a public utility company under PUHCA (id., at 9). The Joint Petitioners state that FERC's EWG determination must be based, in part, on a determination by the Department that the purchased facilities are "eligible facilities" (id., at 9).[(15)] If the cost of such facilities was included in the seller's retail rates on October 24, 1992, FERC's determination that they are "eligible facilities" depends, in part, on a specific determination by the state regulatory agency having jurisdiction over the seller's retail rates (id., at 10). In accordance with PUHCA § 32, 15 U.S.C. § 79z-5a(a)(2), the Joint Petitioners request that the Department make specific determinations that allowing the divested generating assets to become eligible facilities (1) will benefit consumers, (2) is in the public interest, and (3) does not violate state law.

WMECo contends that the eligible facilities exemption to PUHCA was established to avoid subjecting competitive generation to the restrictions of PUHCA, and to enhance the creation of a competitive generation market (WMECo Brief at 9). Further, WMECo maintains that without the "eligible facilities" designation, the Millstone assets would be unmarketable (id.). NEP maintains that the Department should make the requested determination because:

(1) consumers will benefit from the additional generating capacity that will be available for sale in the competitive market and the competitive market is expected to operate more efficiently than the regulated system of generation, (2) it supports the Commonwealth's goals to eliminate the vertical integration of the electric utility industry and make electricity generation a competitive function, and (3) it does not violate state law given the Department has made these findings in many other asset divestitures (NEP Brief at 5, citing New England Power Company, D.T.E. 97-94, at 48 (1998); Eastern Edison Company and Montaup Electric Company, D.T.E. 99-9, at 20 (1999)). Dominion submits

that the eligible facilities designation is necessary as a condition of the sale and that absent this determination, the sale would not be consummated because Dominion could not own and operate Millstone as a public utility company

(Dominion Brief at 12).

Because the expectation of eligible status is an underlying component of the purchase price of the assets, and the sale price mitigates transition costs paid by ratepayers, the Department finds that the designation of the assets as "eligible facilities" satisfies the requirements of §32 of PUHCA. Furthermore, in addition to benefitting ratepayers, a designation of the assets as EWG will contribute to the development of the competitive wholesale generation market, and is, therefore, in the public interest. Finally, the Department notes that competing wholesale generators, including EWGs, will be an integral part of the competitive generation industry that the Restructuring Act was designed to enable. Thus, the Department finds that the divestiture does not violate state law, but rather furthers the objectives of the state law. Accordingly, for the above reasons, the Department finds that allowing the divested assets to become "eligible facilities" will benefit consumers, is in the public interest and does not violate state law.

- ORDER

Accordingly, after due notice, public hearing, opportunity for public comment, and consideration, it is hereby

ORDERED: That the Asset Divestiture involving the sale by Western Massachusetts Electric Company, New England Power Company and Fitchburg Gas & Electric Light Company of their respective interests in Millstone Nuclear Generating Units 1, 2, and 3, as embodied in the Purchase and Sale Agreement and other related documents, to Dominion is approved; and it is

FURTHER ORDERED: That the Millstone facilities are eligible facilities as

defined in PUHCA; and it is

FURTHER ORDERED: That Western Massachusetts Electric Company, New England Power Company and Fitchburg Gas & Electric Company comply with all orders and directives contained herein.

By Order of the Department,

_____

James Connelly, Commissioner

_____

W. Robert Keating, Commissioner

_____

Paul B. Vasington, Commissioner

_____

Eugene J. Sullivan, Jr., Commissioner

_____

Deirdre K. Manning, Commissioner

Appeal as to matters of law from any final decision, order or ruling of the Commission may be taken to the Supreme Judicial Court by an aggrieved party in interest by the filing

of a written petition praying that the Order of the Commission be modified or set aside in whole or in part.

Such petition for appeal shall be filed with the Secretary of the Commission within twenty days after the date of service of the decision, order or ruling of the Commission, or within such further time as the Commission may allow upon request filed prior to the expiration of twenty days after the date of service of said decision, order or ruling. Within ten days after such petition has been filed, the appealing party shall enter the appeal in the Supreme Judicial Court sitting in Suffolk County by filing a copy thereof with the Clerk of said Court. (Sec. 5, Chapter 25, G.L. Ter. Ed., as most recently amended by Chapter 485 of the Acts of 1971).

1. Dominion will assign its rights under the purchase and sale agreement ("PSA") to Dominion Nuclear Connecticut ("DNC"), an indirect, wholly-owned,

special-purpose subsidiary of Dominion Energy, Inc., also a wholly-owned subsidiary of Dominion.

2. In the matter docketed D.T.E. 00-69, The Connecticut Light and Power Company ("CL&P) and Public Service Company of New Hampshire ("PSNH") petitioned the Department to issue similar findings pursuant to § 32(c),15 U.S.C. § 79z-5a of the Public Utility Holding Company Act of 1935 in connection with the sale by CL&P of its interest in Millstone and the sale by PSNH of its generation assets in Millstone

Unit 3.

3. At the public hearing, the Attorney General requested clarification, and the Joint Petitioners agreed, that the scope of the proceeding was limited to the Millstone divestiture and request for EWG status, and that any ratemaking treatment of the proceeds or approval of contracts was beyond the scope of the proceeding. October 20, 2000 Tr. at 13, 14. On December 15, 2000, subsequent to the briefing period, the Attorney General filed a letter with the Department regarding issues raised in the Initial

Briefs of NEP and FG&E arguing that they were beyond the scope of this proceeding. On December 18, 2000, FG&E filed a letter with the Department responding to the Attorney General. The Department makes no further findings on the issues raised in these letters because the issue was clarified previously.

4. An Act Relative to Restructuring the Electric Utility Industry in the Commonwealth, Regulating the Provisions of Electricity and Other Services, and Promoting Enhanced Consumer Protections Therein, signed by the Governor on November 25, 1997

(the "Restructuring Act"). St. 1997, c. 164.

5. The corporate parent of NEP, National Grid USA, acquired Eastern Utilities, the parent of Montaup. Montaup was subsequently merged into NEP (Petition at 2).

6. CL&P is the majority owner of Millstone and subject to the jurisdiction of the CT. DPUC. In Western Massachusetts Electric Company, 97-120, at 130-131 (1999) the Department approved WMECo's divestiture proposal to sell its share of Millstone in conjunction with CL&P pursuant to the CT. Act. The Department further stated that it would determine whether the sale process was equitable and whether it maximized the value of the units being sold in the subsequent divestiture proceeding.

7. The other owners of the Millstone Units are: Millstone Units 1 and 2: CL&P (81 percent); Millstone Unit 3: CL&P (52.93 percent), Public Service Company of New Hampshire (2.85 percent), United Illuminating Company (3.69 percent), Central Maine Power Company (2.5 percent), Chicopee Municipal Lighting Plant (1.35 percent), Connecticut Municipal Electric Cooperative (1.09 percent), Vermont Electric Generation and Transmission Cooperative (0.35 percent), Village of Lyndonville electric Cooperative (0.05 percent), Central Vermont Public Service Company (1.73 percent) and MMWEC (4.80 percent) (Petition at 4-5).

8. The CT. DPUC established a minimum bid price for Millstone Units 1, 2 and 3 at $0, $25/KW, $185/KW, respectively (Exh. JA-5, at 13).

9. In accordance with the CT. Act, an electric company that elects to divest itself of nuclear generating assets is required to submit a divestiture plan to the CT. DPUC. The CT. DPUC approved CL&P's Millstone Divestiture Plan on April 19, 2000. Application of the Connecticut Light and Power Company and the United Illuminating Company for Approval of Their Millstone Nuclear Generation Assets Divestiture Plans, Docket No. 99-02-12, (April 19, 2000) (Exh. DTE 1-4).

10. NEP and FG&E are consenting minority co-owners of Millstone Unit 3

(Exh. JA-5, at 6).

11. In addition to the interests covered by the PSA, the Connecticut Municipal Electric Energy Cooperative executed a separate PSA with Dominion. MMWEC and Central

Vermont Public Service Company chose not to sell their ownership shares in Millstone Unit 3 (Exh. JA-2; JA-5, at 12).

12. The total sale price of the Millstone assets are: Unit 1 - $1,000,000;

Unit 2 - $401,500,000 plus $41,900,000 nuclear fuel; Unit 3 - $790,518,600 plus $62,800,000 nuclear fuel (Exh. JA-1, at 8).

13. Pursuant to 10 C.F.R. § 50.75(e)(1)(iii), the decommissioning trust fund currently does not meet the minimum level required by the NRC (Exh. JA-1, at 11)

14. Title 15 U.S.C. § 79z-5a(a)(1) defines an EWG to be exclusively in the business of owning, operating, or both owning or operating, all or part of one or more eligible facilities and selling electric energy at wholesale.

15. Title 15 U.S.C. § 79z-5a(2)(a) defines an eligible facility as a facility used for the generation of electric energy exclusively for sale at wholesale (Petition at 10, n.7).